

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
BRYSON CITY DIVISION
2:10-CR-00009-MR-DLH

FILED
IN COURT
BRYSON CITY, N. C.

APR 20 2011

U. S. DISTRICT COURT
W. DIST. OF N. C.

UNITED STATES OF AMERICA)
)
VS.)
)
JAMES E. LESPIER)
)
DEFENDANT)

PROTECTIVE ORDER

THIS MATTER having come on to be heard on the 20th day of April, 2011, before the undersigned U.S. District Magistrate Court Judge, in and for the Western District of North Carolina.

After consideration of the Medical Records Department of MedWest-Harris Hospital request for a protective order, the Court would find as follows:

FINDINGS OF FACT:

1. That the medical records of the deceased have been subpoenaed by the Defendant.
2. That the hospital is not a party to this action.
3. That given the confidential nature of the information it would be appropriate to restrict access to such information.
4. That certain documents contained in the medical records may be privileged communications.
5. That the information is necessary to the preparation of the defense.


BASED UPON THE ABOVE FINDINGS OF FACT, THE COURT CONCLUDES AS A MATTER OF LAW:

1. That the Court has jurisdiction over this matter and the parties.
2. That the interests of the Hospital in maintaining the confidential nature of these records must be balanced against the interests of the parties in obtaining any evidence to which they are entitled under the U.S. Constitution and State Law.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:

1. Only information deemed necessary under the Constitution and in the interest of justice will be released to the parties or testify to.
2. That counsel must keep all confidential information learned from Hospital records confidential. All such persons are subject to the same confidentiality requirements under this order as counsel. Any further disclosure or distribution may be made only by the order of the Court upon a finding that further dissemination is necessary for the full and proper prosecution or defense of these causes.
3. That all records in the possession of the Hospital, with respect to the decedent shall be released to the Defendant's counsel.
4. That the attorney shall not release the records or disseminate any information learned from the Hospital to any person except for the trial preparation and trial of this matter.
5. That after conclusion of the trial and appeals in this matter, the attorneys shall retain the records and testimonial information as confidential.

This the 20th day of April, 2011.



U.S District Magistrate Judge Presiding

Western District of North Carolina